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OLC 74-2390

CENTRAL INTELLIGENCE AGENCY

WASHINGTON, D.C. 20505

15 NOV 1974

Mr. Wilfred H. Rommel
Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, D. C. 20503

Dear Mr. Rommel:

Enclosed is the report on the legislative program of
the Central Intelligence Agency for the 1st Session of the 94th
Congress in accordance with the requirements of Circular A-19,
including a proposal recommended for inclusion in the President's
legislative program.

Sincerely,

SIGNED

George L. Cary
Legislative Counsel

Enclosure
(Classified Annex under separate cover)

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CENTRAL INTELLIGENCE AGENCY
PROPOSED LEGISLATIVE PROGRAM FOR THE 1ST SESSION
OF THE 94TH CONGRESS

PART I--PRESIDENT'S PROGRAM PROPOSALS

94-1. Amending the National Security Act of 1947 to Protect Intelligence Sources and Methods.

For a number of years, Directors of Central Intelligence have been seriously concerned with the damage to the national intelligence collection effort resulting from the unauthorized disclosure of intelligence information revealing sensitive Intelligence Sources and Methods. In large measure, these disclosures have resulted from the absence of an effective deterrent criminal law which would not require public confirmation of the information disclosed nor disclosure of additional classified information, as is generally required under the existing criminal laws dealing with espionage.

The Central Intelligence Agency submitted to the Assistant Director for Legislative Reference by letter dated 14 January 1974 draft legislation to amend the National Security Act of 1947 and establish criminal penalties for disclosing Intelligence Sources and Methods information without authorization. Specifically, the proposal makes it a crime for any employee, former employee, or other person to disclose intelligence information received by virtue of his employment or other relationship with the U. S. Government; in other words, those who have and betray their fiduciary relationship of trust with the U. S. Government. The proposal specifically excludes from prosecution all other individuals involved in any unauthorized disclosure. In addition to criminal sanctions, the proposal provides authority to enjoin those persons subject to prosecution from publishing sensitive information, thereby avoiding serious damage to the intelligence collection effort in the first instance. Under the proposed law the information involved is subject to court examination in camera to assure that the designation for its protection and limitation on dissemination was not arbitrary and capricious.

Although there have been misunderstandings that the proposal is an attempt to throttle any criticism of CIA, it relates solely to information which the Director of Central Intelligence is held responsible by statute to

protect from unauthorized disclosure. It is similar to numerous other Federal statutes which penalize the release of information maintained by the Government in confidence (cotton statistics, census data, income tax information, etc.). The Attorney General has indicated agreement with the thrust of this proposal subject to working out certain problems. It is hoped that the proposal will be cleared by the Office of Management and Budget for early submission to the 94th Congress.

Cost Estimate. This proposal does not involve any measurable costs. Any court costs to the Government would be more than offset by the savings that would result if the legislation deters the compromise of sensitive sources and methods which, if compromised, would require extensive and costly counteractions to mitigate the damage and to offset the advantages to the opposition.

PART II--ALL OTHER PROPOSALS

94-2. Amendments to the Central Intelligence Agency Retirement Act.

(a) Draft legislation concerning the funding of the Central Intelligence Agency Retirement system and changes in survivor benefits was submitted to the Assistant Director for Legislative Reference by letter dated 2 October 1973. The specific proposals, set forth below, have been held in abeyance by OMB pending a decision on the definition of unfunded liability to be followed by all Federal staff retirement systems.

(1) Funding. This proposal would authorize for the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, financing identical to that approved for the Civil Service system in P. L. 91-93 and the Foreign Service system in P. L. 91-201. The proposal provides permanent indefinite authority for payments into the fund of (A) interest on past unfunded liability, and (B) annuity disbursements attributable to military service credit. It also authorizes appropriations for a 30-year amortization of newly created unfunded liability.

Precedents for this proposal include P. L. 91-93 (House Report 91-158; Senate Report 91-339) concerning the Civil Service Retirement System, and P. L. 91-201 (House Report 91-716; Senate Report 91-701) concerning the Foreign Service Retirement System.

Cost Estimate. Obligation to be met by Secretary of Treasury:

(Dollars in Millions)

Interest on unfunded liability and military service credit ...

(See Classified Annex)

(2) Survivor Benefits. This proposal would bring the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, into conformity with liberalizations made by P. L. 91-658 and P. L. 92-243 in the Civil Service Retirement System concerning survivor annuities for a widower, a spouse acquired after retirement and a child under petition for adoption, and retirement credit for periods of separation covered by Federal employees' compensation for work injuries. The CIA Retirement Act applies to only about one-third of our staff personnel, but the provisions relevant to this proposal were patterned after the Civil Service Retirement System and should be adjusted to assure equitable treatment, especially in survivorship cases.

The precedents for the proposal are found in P. L. 91-658 (House Report 91-1469; Senate Report 91-1092), and P. L. 92-243 (House Report 92-811; Senate Report 92-527). The subsequent enactment of P. L. 92-187 (House Report 92-415; Senate Report 92-528), which has general applicability to all Federal staff retirement systems, technically has overtaken the need for the liberalized benefit for widowers of deceased female participants, but in the interest of clarification a specific amendment to the CIA Retirement Act is in order.

Cost Estimate. This proposal would not require any new budgetary authority as all payments would be made out of the CIA Retirement Fund and an actuarial analysis of the proposal indicates it would have a negligible impact upon normal costs.

(b) Draft legislation to adopt other more recent changes in the Civil Service Retirement System will be submitted to OMB for advice shortly

after the 94th Congress convenes. These proposals will embody P. L. 93-273, P. L. 93-260, and P. L. 93-474. P. L. 93-273 provided an increase of \$240 for an annuitant who retired prior to 20 October 1969, or \$132 for the surviving spouse of such annuitant, and established a minimum annuity to be comparable to the smallest primary insurance under the Social Security Act. P. L. 93-260 amended the definition of widow and widower to qualify for a survivor annuity. The required minimum period of marriage prior to the death of the annuitant was reduced from two years to one year. P. L. 93-474 eliminated the reduction in annuity during periods when the annuitant is not married.

The precedents for these proposals are found in P. L. 93-273 (House Report 93-460; Senate Report 93-353), P. L. 93-260 (House Report 93-882; Senate Report 93-395), and P. L. 93-474 (House Report 93-915; Senate Report 93-351; Conference Reports: House Report 93-1431 and Senate Report 93-1241).

Cost Estimates. The proposal to adopt:

P. L. 93-273 would increase the unfunded liability by \$900,000. This cost involves the payments to annuitants prior to 20 October 1969. There is no cost involved in establishing a minimum annuity comparable to minimum benefits under Social Security;

P. L. 93-260 would increase the unfunded liability by \$1.9 million and the normal cost would be increased by .06 percent of payroll;

P. L. 93-474 would increase the unfunded liability by \$3.8 million and the normal cost would be increased by .109 percent of payroll.

(c) In order to maintain conformity between the Central Intelligence Agency and the Civil Service retirement systems, legislation will be proposed to allow the comparable adoption by the Agency system of changes in the Civil Service system which are substantially identical to provisions in the Agency system.

The precedent for this proposal is in section 805 of S. 1791, the Foreign Service Retirement Amendments of 1974, which passed the Senate on 17 July 1974 and which should be favorably acted upon by the House.

Cost Estimate. Cost figures are not calculable for this proposal; however, there would be the saving of appreciable manhours within the Executive branch and the Congress now expended to process legislation to adopt separately for the Agency retirement system each applicable change in the Civil Service system.

TAB

SECRET

CLASSIFIED ANNEX

93rd CONGRESS

CIA RETIREMENT ACT AMENDMENTS

COST ESTIMATE

1973 1974 1975 1976 1977

(Dollars in Millions)

Military service credit
and interest on unfunded
liability (30%, 40%, 50%,
60% and 70% respectively),
and redefined CIARDS normal
cost not covered by current
employee and employer
contribution.

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